IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 16TH JANUARY 2007 / 26TH PAUSHA 1928

WP(C).No. 1674 of 2007(Y)

PETITIONER:

COCHIN CO-OPERATIVE HOSPITAL SOCIETY LTD,
NO.3-288, GANDHI NAGAR, COCHIN – 682 020

BY ADV. SRI.P.N.MOHANAN

RESPONDENTS:

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1. JOINT REGISTRAR OF CO-OP SOCIETIES (GENERAL), ERNAKULAM.

2. ERNAKULAM DISTRICT CO-OP. EMPLOYEES HOUSING CO-OP SOCIETY LTD., NO.3-933, PROVIDENCE PLAZA, PROVIDENCE ROAD, ERNAKULAM-18, REP. BY ITS SECRETARY

BY SENIOR GOVERNMENT PLEADER, SRI P.N.SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M.JAMES, J.

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W.P.(C) No. 1674 of 2007 (Y)

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Dated this the 16th day of January, 2007

J U D G M E N T

The counsel for the writ petitioner submits that for an admission of a society, there should be an application, in the form prescribed, under Rule 16(1)(a) of the Kerala Co-operative Societies Rules, 1969, in short 'the Rules' and also under Clause (8) of the bye-laws of the writ petitioner society. It is submitted that no such application had been preferred by the second respondent, except remitting an amount of Rs.1,010/-, which is not in accordance with Rule 16(1)(a) of the Rules.

2. The first respondent, Joint Registrar has passed an order dated 03/01/2007, basing on the representation of the second respondent, directing the writ petitioner to give membership to the second respondent, within three days from the date of receipt of the order dated 03/01/2007, Exhibit P7.

3. The counsel for the writ petitioner submits, relying on Rule 16(1)(b) that an application submitted for the membership is to be approved by the committee of the writ petitioner society

and in this case, there being no formal application in the prescribed form, the committee of the writ petitioner society could not consider the same. Therefore, the order of the first respondent, Joint Registrar is against the Rules.

4. A representation dated 15/12/2006, Exhibit P5, show that the Honorary Secretary of the second respondent had appeared before the first respondent and stated that on 05/04/1999, an amount of Rs.1010/- had been remitted and receipt obtained. But the membership was not so far issued. On the writ petition having been filed, this Court directed the Joint Registrar to consider the complaint of the second respondent and take a decision, within 45 days thereon. It is stated in Exhibit P5 complaint that election is due to the managing committee of the writ petitioner Society. It was in such circumstances, the order dated 03/01/2007 had been issued by the first respondent. However, on going through the facts, leading to the issuance of the order dated 03/01/2007, I do not find that the first respondent, Joint Registrar has examined whether the procedure that has to be followed by the writ petitioner had been complied with or not.

5. In such circumstances, I set aside Exhibit P7 order dated 03/01/2007. I direct the Joint Registrar to hear the second respondent as well as the writ petitioner and examine whether the provisions contained under Section 16(1) of the Act and Rule 16(1) of the Rules have been complied with, by the second respondent, while praying for the membership of the writ petitioner society. The first respondent shall, thereafter, take a decision, within one month from the date of receipt of a copy of this judgment. I make it clear that, in case, no application is given or the procedure, as contemplated under Rule 16(1) of the Rules is not followed by the second respondent, the first respondent, Joint Registrar shall give an opportunity to the second respondent, to file a fresh application, as per the Rules and, in such situation, an order shall be passed, after giving an opportunity to the committee of the writ petitioner society, to consider the same. A final decision shall be taken, by the first respondent Joint Registrar, only thereafter.

The writ petition is closed accordingly.

(J.M.JAMES)
Judge

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